

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 January 2008 has been entered.

This action is response to the amendments of 29 February 2008, the arguments in the responses of 23 January 2008 and 29 February 2008 and the declaration of 23 January 2008. The amendments to the claims have overcome the rejection over claim 9 and the art rejection over U.S. patent 6,375,864. Applicant's arguments with respect to the art rejection and the previous 35 USC 112 rejection have been fully considered but they are not persuasive.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 2 teaches the white pigment comprises titania, zinc oxide or zinc sulfide, which means the pigment can contain other materials besides the claimed titania, zinc oxide and zinc sulfide. Page 4 of the specification teaches white pigment is titania, zinc oxide or zinc sulfide. The discrepancy between the claimed definition of the pigment and the definition on page 4 needs to be clarified.

Applicants argue that the definitions on page 4 are preferred embodiments. This argument does not overcome the rejection since page defines the white pigment on page 4

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as being titania, zinc oxide or zinc sulfide, where is narrower than the composition in claim 2 for the reasons given above. There is no indication that the white pigment can be mixtures of these materials with other compounds as claimed. The rejection is maintained.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-7, 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 06-67612.

The translation of this reference teaches a molding and signs including this molding which must be produced by incorporating the molding in a sign. The taught molding comprises a transparent plastic matrix, such as cast polymethyl methacrylate which has a transmittance in the claimed range, a soluble fluorescent dye, color pigment and 0.01-10 wt% of a white pigment of a mixture of TiO_2 and barium sulfate. The weight ratio of TiO_2 to barium sulfate is greater than 0 wt% to less than 100 wt%. Thus the amount of TiO_2 is in the range of greater than 0 wt% to less than 10 wt%. This range overlaps the claimed range. Product claims with numerical ranges which overlap prior art ranges were held to have been obvious under 35 USC 103. *In re Wertheim* 191 USPQ 90 (CCPA 1976); *In re Malagari* 182 USPQ 549 (CCPA 1974); *In re Fields* 134 USPQ 242 (CCPA 1962); *In re Nehrenberg* 126 USPQ 383 (CCPA 1960). Since the taught composition overlaps the claimed composition, one of ordinary skill in the art would expect the taught molding to have a reflectance that overlaps the claimed range, absent any showing to the contrary. The reference suggests the claimed molding and method.

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The declaration under 37 CFR 1.132 filed 23 January 2008 is insufficient to overcome the rejection of claims based upon JP 06-67612 as set forth in the last Office action because: the statement on in section 5 that applicants know of no reason why other examples within the scope of claim 1 should not also show the same superior results indicates that the shown superior results when the amount of white pigment is within the claimed range are not unexpected.

Applicants' arguments are that the claimed range of white pigment gives superior results as compared to the results when the amount of white pigment is outside the claimed range. This argument is not convincing for the reason why the declaration was insufficient. The argued upper limits in claims 13 and 14 do not overcome the rejection since the amount of titania in the reference encompasses the values of these claims. The white pigment in the reference is a combination of barium sulfate, which applicants call a scattering agent, and titania, which applicants call a white pigment. The taught amount of titania overlaps the claimed amount. The rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/cmk/
March 27, 2008

/C. Melissa Koslow/
Primary Examiner
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